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9 Attorneys for Respondent

10  
11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION

14 **JORGE GARCIA,**

Petitioner,

15  
16 **v.**

17 **ROBERT HOREL, Warden,**

18 Respondent.  
19

C 07-06012 JSW

**DECLARATION OF STAN  
HELFMAN IN SUPPORT OF  
MOTION TO MODIFY  
ORDER TO SHOW CAUSE**

20  
21 Stan Helfman states under penalty of perjury:

22 (1) I am a Supervising Deputy Attorney General for the state of California and I  
23 represent respondent in this matter.

24 (2) According to the Order to Show Cause, Garcia was convicted by a jury of  
25 premeditated attempted murder, assault with a firearm, and various firearms and gang enhancements,  
26 and was sentenced to twenty-five years to life in state prison.

27 (3) The California Court of Appeal affirmed the judgment and denied a habeas corpus  
28 petition. According to Garcia's federal petition, the California Supreme Court denied a petition for

1 review.

2 (4) On November 28, 2007, petitioner, who is represented by counsel, filed a petition for  
3 writ of habeas corpus in this Court.

4 (5) The petition makes numerous claims of prosecutorial misconduct, ineffective  
5 assistance of counsel, and cumulative error.

6 (6) On November 29, 2007, this court issued an Order to Show Cause directing  
7 respondent to file an answer within 60 days of the date of the Order, or by January 27, 2008. The  
8 Order to Show Cause directs petitioner to serve the Order to Show Cause and the petition and  
9 attachments on respondent by certified mail.

10 (7) Instead of timely serving the Order to Show Cause and petition on respondent,  
11 petitioner waited until February 27, 2008, when respondent's time under the Order to Show Cause  
12 was long expired. As a result, petitioner has made it impossible for respondent to comply with this  
13 Court's Order to Show Cause. See Exh. A (Proof of Service), B (Certified Mail Envelope).

14 (8) Upon receiving the Order to Show Cause and petition, I promptly ordered our state  
15 files from record storage, but I have not yet received them. I must review the materials in the files  
16 in order to respond to the petition.

17 (9) In view of the foregoing circumstances, to ensure that respondent is not in default of  
18 this Court's Order to Show Cause and to best serve the interests of justice, this Court should modify  
19 line 11, page 2 of the Order to Show Cause to add the words "service of," so as to require respondent  
20 to file and serve the answer "within 60 days of the date of service of this Order." This modification  
21 will ensure respondent is not harmed by petitioner's untimely service.

22 (10) Before turning to this case, I must prepare pleadings in *People v. Rutledge*,  
23 A115713, *Magraff v. Ayers*, CIV S 07-1121, *Espinoza v. Walker*, C 07-1741, *Conti v. Evans*, C 05-  
24 2245, *Townsend v. Adams*, C 07-4904, and *People v. Grimmer*, A118531. I am working on *Rutledge*  
25 and *Grimmer*.

26 ///

27 ///

28 ///

1 For the foregoing reasons, respondent respectfully requests modification of the Order to  
2 Show Cause.

3 Dated: March 3, 2008

4 Respectfully submitted,

5 EDMUND G. BROWN JR.  
Attorney General of the State of California

6 DANE R. GILLETTE  
Chief Assistant Attorney General

7 GERALD A. ENGLER  
Senior Assistant Attorney General

8 PEGGY S. RUFFRA  
Supervising Deputy Attorney General

9  
10  
11  
12 /s/ Stan Helfman  
STAN HELFMAN  
Supervising Deputy Attorney General  
Attorneys for Respondent  
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# **EXHIBIT A**

**PROOF OF SERVICE**

I, the undersigned, depose and state: I reside or do business withing the County of Alameda. I am over eighteen years of age and not a party to this action. My business address is 1 Kaiser Plaza, Suite 2300, Oakland, California, 94612.

On Wednesday, February 27, 2008, I served a copy of the following documents:

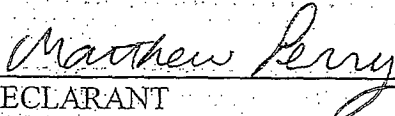
**PETITION FOR WRIT OF HABEAS CORPUS; MEMORANDUM OF POINTS AND AUTHORITIES; ORDER TO SHOW CAUSE**

I served the following persons by: ☒ U.S. mail (Certified) ☐ FAX ☐ personal delivery:

**Office of the Attorney General  
455 Golden Gate Avenue,  
Suite 11000  
San Francisco, CA 94102**

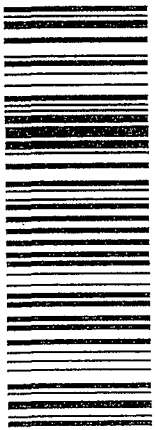
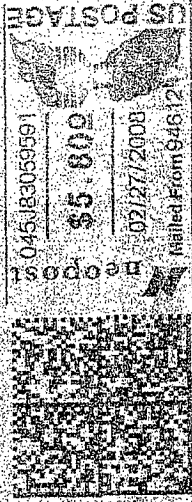
**Warden Robert Horel  
Pelican Bay State Prison  
PO Box 7000  
Crescent City, CA 95531**

I declare under penalty of perjury that the above is true. Executed in Oakland, California on Wednesday, February 27, 2008

  
DECLARANT

## **EXHIBIT B**





7003 3110 0002 6550 7736

RECEIVED

FEB 28 2008

ROBERT J. BELES

ATTORNEY AT LAW

THE ORDWAY BUILDING

1 KAISER PLAZA, SUITE 2300

OAKLAND, CALIFORNIA 94612

TO: Office of the Attorney General  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102

